

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

UNITED STATES OF AMERICA )  
Plaintiff, )  
v. )  
PHILIP M. RALIDIS, DONNA B. RALIDIS, )  
NATIONAL CITY MORTGAGE, and )  
WELLS FARGO BANK NA )  
Defendants. )

FILED  
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CIVIL NO. A05CA879 SS

**UNITED STATES OF AMERICA'S COMPLAINT**

Plaintiff, the United States of America, for its Complaint, which is commenced pursuant to I.R.C. §§ 7401 and 7403, at the direction of the Attorney General of the United States, and with the authorization and at the request of Chief Counsel, Internal Revenue Service, a delegate of the Secretary of the Treasury, alleges as follows:

1. This is an action by the United States to foreclose federal tax liens upon certain real property, and to the extent there is any unpaid balance of tax due to reduce the tax assessment to judgment. This Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. § 7402. Venue is proper in this Court under 28 U.S.C. § 1391(a) and (b).
2. The United States seeks to recover unpaid federal taxes, interest and penalties assessed against Philip M. and Donna B. Ralidis by foreclosure of federal tax liens encumbering the real property located at 3003 Loveland Cove, Austin, Texas 78746.
3. In April of 1997, Philip and Donna Ralidis purchased the property located at 3003 Loveland Cove, Austin, Texas. The legal description of this property is as follows:

Lot 24: Beecave Woods, Section 4, a subdivision in Travis County, Texas, according to the map or plat recorded in Volume 79, Page 350, of the plat records of Travis County, Texas.

4. Defendant, Philip M. Ralidis, is a resident of Austin, Texas, and may be served there.
5. Defendant, Donna B. Ralidis, is a resident of Austin, Texas and may be served there.
6. Defendant National City Mortgage is named as a party to this action because it may have an interest in certain real property which is the subject of this foreclosure action. National City Mortgage may be served through its authorized agent, CT Corporation System at 350 N. St. Paul Street, Dallas, TX 75201.
7. Defendant Wells Fargo Bank NA is named as a party to this action because it may have an interest in certain real property which is the subject of this foreclosure action. Wells Fargo Bank may be served through its authorized agent, Corporation Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701.
8. Philip and Donna Ralidis filed their Form 1040 2002 federal income tax return with zeros on all the lines except tax withheld and a request for refund (“zero return”).<sup>1</sup> Philip and Donna Ralidis went so far as to write that he had “no taxable source of income” on their 2002 return. Philip Ralidis also filed a Form W-4 claiming that he was exempt from income tax.<sup>2</sup>
9. Philip and Donna Ralidis also filed a Form 1040X amended federal income tax return claiming a refund of \$87,512 for the 2002 tax year on the basis that they were exempt from federal taxation. The Internal Revenue Service (“IRS”) selected the Ralidis’ return for examination.

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<sup>1</sup>See Appendix of Exhibits No. 1.

<sup>2</sup> See Appendix of Exhibits No.1; specifically the Form W-4.

10. The IRS determined that Ralidis' 2002 return failed to include the income as follows:

\$316,350	—	self employment income
\$21,533	----	rental income
\$104	-----	interest income

See appendix of Exhibits No. 2

11. On April 21, 2004, the IRS issued a statutory Notice of Deficiency to Philip and Donna Ralidis, because they failed to petition the Tax Court. Subsequently, a delegate of the Secretary of the Treasury made assessment, and gave notice and demand against them for tax, penalties and statutory additions due for the 2002 tax year. See Appendix of Exhibits No. 3.

12. Ralidis' tax liability is currently at \$77,101.66 for the 2002 tax year, which includes tax, penalty, and interest figured to June 30, 2005. In addition, Phillip Ralidis owes \$538.00 for a frivolous return penalty relating to the 2002 tax year. See Appendix of Exhibits No. 3.

13. In addition, pursuant to 26 U.S.C. § 6702, the IRS assessed a \$500 civil penalty against Philip Ralidis for filing a frivolous tax return for the 2002 tax year. Philip Ralidis filed an action in the District Court for the Western District of Texas, CIVIL NO. A:04-CA-643 SS, challenging the IRS' assessment and validity of the frivolous return penalty relating to the "zero return" he filed for the 2002 tax year. Philip Ralidis raised numerous tired and frivolous tax protester type arguments as the basis for his suit. On February 9, 2005, the Court granted the United States' motion for summary judgment and entered judgment against Ralidis upholding the assessment of the penalty. Philip Ralidis has filed an appeal of the Court's decision which is pending in the Fifth Circuit Court of Appeals.

14. On February 8, 2005, a Notice of Federal Tax Lien for Ralidis' federal income tax liability and the frivolous return penalty liability was filed against Phillip M. Ralidis and Donna B. Ralidis with the Travis County Clerk in the real property records. See Appendix of Exhibits No. 4.

15. The filed federal tax liens are attached to the property real property located at 3003 Loveland Cove, Austin, Texas 78746.

WHEREFORE, the United States requests as follows:

1. That this Court order, adjudge and decree that the United States has a valid lien on the property located at 3003 Loveland Cove, Austin, Texas 78746, and determine the validity of all the liens and claims of the defendants named herein and the priority of their respective liens and claims as against that of the United States.

2. That this Court order the foreclosure of such lien. The United States further requests that the Court order that such property be sold in accordance with the law and practices of this Court, and that the proceeds of such sale be distributed in accordance with the findings of the Court and the rights of the United States.

3. That this Court order, adjudge and decree that Philip and Donna Ralidis are indebted to the United States in the aggregate amount of \$77,101.66 plus interest and statutory additions as provided by law until the date of the judgment.

4. That the United States be granted such other and further relief as the Court deems just and proper.

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